



January 20, 2005

HOUSE BILL No. 1022

DIGEST OF HB 1022 (Updated January 19, 2005 10:51 am - DI 103)

Citations Affected: IC 4-3; IC 13-11; IC 13-15; IC 34-6; IC 34-30; IC 36-7.

Synopsis: Military base protection act. Establishes the military base planning council. Requires the council to study and report on issues related to military bases. Requires the department of environmental management to give priority to permit applications concerning operations that involve ordnance and other explosive materials at military bases. Provides immunity from civil liability for military bases for damages relating to: (1) noise that results from the operation of the military base that may be heard within two miles of the military base; and (2) interference with telecommunications that results from the operation of the military base and occurs within five miles of the military base. Requires a unit of local government to notify the commander of a military base located in the unit before the unit takes action concerning planning or zoning within three miles of the perimeter of the military base. Requires the commander to respond within 15 days of receiving notice. Prohibits a unit from taking action that: (1) concerns planning or zoning; and (2) is adverse to a military base; within three miles of the perimeter of the military base.

Effective: Upon passage.

Koch, Welch, Borders, Woodruff

January 4, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

January 19, 2005, amended, reported — Do Pass.

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January 20, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1022

A BILL FOR AN ACT to amend the Indiana Code concerning military bases.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-3-21 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 21. Military Base Planning Council**

5 **Sec. 1. As used in this chapter, "council" refers to the military**
6 **base planning council established by section 3 of this chapter.**

7 **Sec. 2. As used in this chapter, "military base" means a United**
8 **States government military installation that:**

- 9 (1) has an area of at least sixty thousand (60,000) acres; and
10 (2) is used for the design, construction, maintenance, and
11 testing of electronic devices and ordnance.

12 **Sec. 3. The military base planning council is established.**

13 **Sec. 4. The council consists of the following members:**

- 14 (1) Each member of the house of representatives whose house
15 district includes all or part of a county that contains any part
16 of a military base.
17 (2) Each member of the senate whose senate district includes

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all or part of a county that contains any part of a military base.

(3) The lieutenant governor or the lieutenant governor's designee.

(4) The adjutant general or the adjutant general's designee.

(5) The commissioner of the department of environmental management or the commissioner's designee.

(6) The commissioner of the Indiana department of transportation or the commissioner's designee.

(7) The director of the state emergency management agency or the director's designee.

(8) The following local government representatives:

(A) One (1) member of the county executive of each county that contains all or part of a military base, appointed by the county executive.

(B) One (1) member of the county fiscal body of each county that contains all or part of a military base, appointed by the county fiscal body.

(C) One (1) member:

- (i) who is the executive of the municipality having the largest population in each county that contains all or part of a military base if that municipality is a city; or
- (ii) who is appointed from the membership of the fiscal body of that town, if a town is the municipality having the largest population in the county.

(D) One (1) member of the legislative body of the municipality having the largest population in each county that contains a military base, appointed by the legislative body of that municipality.

Sec. 5. (a) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and

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procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 6. The governor shall designate a member of the council to serve as chairperson of the council.

Sec. 7. The council shall meet at the call of the chairperson.

Sec. 8. The governor shall provide staff assistance as the council may require.

Sec. 9. A member of the council who is a member of the general assembly is a nonvoting member.

Sec. 10. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any measure, including reports required in section 12 of this chapter.

Sec. 11. The council shall do the following:

(1) Identify the public infrastructure and other community support necessary:

(A) to improve mission efficiencies; and

(B) for the development and expansion; of military bases in Indiana.

(2) Identify existing and potential impacts of encroachment on military bases in Indiana.

(3) Identify potential state and local government actions that can:

(A) minimize the impacts of encroachment on; and

(B) enhance the long term potential of; military bases.

(4) Identify opportunities for collaboration among:

(A) the state, including the military department of the state;

(B) political subdivisions;

(C) military contractors; and

(D) academic institutions;

to enhance the economic potential of military bases and the economic benefits of military bases to the state.

(5) Review state policies, including funding and legislation, to

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1 identify actions necessary to prepare for the United States
2 Department of Defense Efficient Facilities Initiative scheduled
3 to begin in 2005.

4 (6) Study how governmental entities outside Indiana have
5 addressed issues regarding encroachment and partnership
6 formation described in this section.

7 **Sec. 12. The council shall submit a report to the:**

8 (1) governor; and

9 (2) legislative services agency;

10 not later than July 1 of each year. The report submitted to the
11 legislative services agency must be in an electronic format under
12 IC 5-14-6.

13 SECTION 2. IC 13-11-2-129.6 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: **Sec. 129.6. "Military base", for**
16 **purposes of IC 13-15-3-1.3, means a United States government**
17 **military installation that:**

18 (1) has an area of at least sixty thousand (60,000) acres; and

19 (2) is used for the design, construction, maintenance, and
20 testing of electronic devices and ordnance.

21 SECTION 3. IC 13-15-3-1.3 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: **Sec. 1.3. The department shall give priority to**
24 **permit applications that concern:**

25 (1) military bases; and

26 (2) the destruction, reclamation, recycling, reprocessing, or
27 demilitarization of ordnance and other explosive materials.

28 SECTION 4. IC 34-6-2-82.6 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: **Sec. 82.6. "Military base", for purposes of**
31 **IC 34-30-21, means a United States government military**
32 **installation that:**

33 (1) has an area of at least sixty thousand (60,000) acres; and

34 (2) is used for the design, construction, maintenance, and
35 testing of electronic devices and ordnance.

36 SECTION 5. IC 34-6-2-142.6 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE UPON PASSAGE]: **Sec. 142.6.**
39 **"Telecommunications", for purposes of IC 34-30-21, means the**
40 **transmission of any document, picture, datum, sound, or other**
41 **symbol by television, radio, microwave, optical, or other**
42 **electromagnetic signal.**

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SECTION 6. IC 34-30-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21. Military Bases: Immunity for Noise Pollution and Telecommunications Interference

Sec. 1. This chapter does not grant immunity from civil liability to a person who commits an act that:

- (1) amounts to gross negligence or willful and wanton misconduct; or
- (2) does not comply with an applicable federal law.

Sec. 2. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to noise or noise pollution that:

- (1) results from the normal operation or use of the military base, including the destruction of ordnance; and
- (2) may be heard within two (2) miles of the perimeter of the military base.

Sec. 3. A military base, a person employed by a military base, or a person otherwise authorized by a military base to conduct operations on or use the military base is not liable for civil damages relating to interference with telecommunications that:

- (1) results from the normal operation or use of the military base; and
- (2) occurs within five (5) miles of the perimeter of the military base.

SECTION 7. IC 36-7-30.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 30.1. Planning and Zoning Affecting Military Bases

Sec. 1. As used in this chapter, "military base" means a United States government military installation that:

- (1) has an area of at least sixty thousand (60,000) acres; and
- (2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

Sec. 2. (a) Before a unit may take action to:

- (1) plan or regulate the:
 - (A) use, improvement, and maintenance of real property; or
 - (B) location, condition, and maintenance of structures and other improvements; or
- (2) regulate the platting and subdividing of real property;

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1 located within three (3) miles of the perimeter of a military base,
 2 the unit must notify the commander of the military base of the
 3 unit's intent to take action to ensure the action will not have an
 4 adverse impact on the operation of the military base.

5 (b) The notice provided under subsection (a) must request that
 6 the commander of the military base respond to the notice:

7 (1) with written recommendations and supporting facts
 8 concerning the action and its impact on the operation of the
 9 military base; and

10 (2) not more than fifteen (15) days after the date the
 11 commander receives the notice.

12 (c) If the commander does not submit a response to the notice
 13 provided under subsection (a) not more than fifteen (15) days after
 14 the date the commander receives the notice, the unit may presume
 15 that the action will not have an adverse impact on the operation of
 16 the military base.

17 Sec. 3. A unit may not take action to:

18 (1) plan or regulate the:

19 (A) use, improvement, and maintenance of real property;
 20 or

21 (B) location, condition, and maintenance of structures and
 22 other improvements; or

23 (2) regulate the platting and subdividing of real property;
 24 located within three (3) miles of the perimeter of a military base if
 25 the action will have an adverse impact on the operation of the
 26 military base.

27 SECTION 8. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1022, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 15, after "a" insert "**county that contains any part of a**".

Page 1, line 17, after "a" insert "**county that contains any part of a**".

Page 5, line 41, delete "in a zoning district, a zoning classification, or, if the unit does not" and insert "**located within three (3) miles of the perimeter of a military base,**".

Page 5, delete line 42.

Page 6, line 1, delete "located,".

Page 6, line 9, delete "sixty (60)" and insert "**fifteen (15)**".

Page 6, line 12, delete "sixty (60)" and insert "**fifteen (15)**".

Page 6, line 23, delete "in a zoning district, a zoning classification, or, if the unit does not" and insert "**located within three (3) miles of the perimeter of a military base**".

Page 6, delete line 24.

Page 6, line 25, delete "located,".

and when so amended that said bill do pass.

(Reference is to HB 1022 as introduced.)

RUPPEL, Chair

Committee Vote: yeas 9, nays 0.

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